

Torres. Licho was renting different cars at the time because he did not have a car. Licho continued to hide out through November and try to make a plan for getting away from the area. Licho did spend Thanksgiving with his family. They went to a restaurant and took pictures later in the parking lot.

Although the family had many negative things happening in 2001, Licho's sister, Brenda had some positive news. Brenda had bought some property near Jose's mother's home and was building a house. She planned to move out of the house on Weisenberger when her home was complete and hoped to take the family with her.

*In November 2001, I received a promotion at my job; I was hopeful that the family was back on track. The family including Licho went out to a restaurant for Thanksgiving of 2001. We took pictures outside the restaurant and the family had planned to go on a pilgrimage down to South Texas to give Thanks to the Virgin De San Juan in San Juan, Texas. We planned to leave at 10:00pm to drive thru.<sup>40</sup>*

While the rest of the family was in San Juan, Texas, Licho was arrested for the capital murder of Officer James.

#### **Licho's School and Educational History**

Licho had problems even in Kindergarten. In the Fall of 1988, Licho started first grade at Gabe P. Allen Elementary. From school records, it does not appear that this school had a bilingual program. As is the case for many Mexican-American children, only hearing Spanish spoken in the home causes the first years of school to be extremely difficult. Licho knew that as far as school was concerned, he was on his own. His parents, and particularly his father, could not read or write in English and/or Spanish and were unable to help with any type of school tasks. Brenda and Jose, Jr. initially attempted to provide some help to their siblings, but they had their own concerns to deal with. Licho did very poorly in the first semester, but improved in the second semester. Fortunately, when the two semesters were averaged, he just barely had passing grades. In fact, his TEAMS scores in mathematics, reading and writing were low and did not reflect that any of these subjects had been

mastered. The only subject that Licho was doing well in was physical education. Licho just passed first grade by a smidgen. His final averaged scores were: Mathematics 69, Social Studies 71, Science Health 71, Fine Arts 73, ELA 75, NLCD 68 and Physical Education 93.

In Fall 1989, Licho started second grade. His teacher was an older, white male. This teacher believed in the theory it would be more efficient if everyone was "right handed". If some students were unfortunate enough to be left handed, it didn't present that much of a problem as they could be converted to use their right hand. This teacher made it common knowledge that left handed people were somewhat backwards and "less than" the others. Licho had struggled in first grade, but his grades in second were even worst. Licho was struggling with personal insecurities prior to this and these poor grades and the teacher's attitude reinforced his beliefs. Licho was transferred to ER Martinez to repeat second grade. Licho started second grade in Fall of 1990 at ER Martinez and his grades improved significantly.

Licho started third grade at ER Martinez in Fall of 1991. He had substantially improved his grades and completed third grade with the following scores: Mathematics 82, Social Sciences 82, Science 80, Fine Arts 91, ELA 86, NLCD 81, Reading 86 and PE 90. On the TAAS, Licho continued not to meet the minimum expectations in reading and mathematics.<sup>41</sup>

Licho continued to make passing grades in fourth grade at ER Martinez in Fall of 1992, but his grades did deteriorate somewhat – which may have been related to behavioral problems. He continued to do well in Fine Arts and PE, but his other grades dropped to barely passing.

In Fall of 1993, Licho was in fifth grade at ER Martinez and his grades continued to be just passing in most subjects, except PE and Band. On the TAAS, Licho did not meet the minimum expectations for reading or mathematics. By Spring of 1994, Licho was just barely passing.

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40 Brenda Hinojosa Affidavit (Exhibit 2)

41 School Records (Exhibit 28)

Licho began sixth grade in Fall of 1994 at ER Martinez. His grades were poor in the first semester, but by Spring, he had significantly raised his grades. Because of his significant improvement in the Fall Semester, he was able to improve his average and passed all subjects.

Licho continued to have various behavioral problems, but otherwise he seemed to be doing fairly well in school. The principal of ER Martinez, Rosa Line Pena, remembered Licho. He was frequently in trouble and spent a considerable amount of time in her office. Licho's parents were frequently called to come to the school because of Licho's behavior problems. Licho's father was a stern man and Ms. Pena had the impression that Licho's mother tended to spoil and pamper Licho. Licho's mother was usually the one that attended most parent conferences. Ms. Pena believed that Licho was intelligent and often manipulated other children. She would occasionally have lunch with Licho because he was in trouble. She was surprised to be able to have an adult conversation with him. Licho seemed to crave attention, whether it was bad or good. Ms. Pena often got the impression that he misbehaved so he could get out of class and sit in the office and see what was going on.

After sixth grade, Licho left ER Martinez and started Thomas Edison. Licho's real school problems started at Thomas Edison. From that point on, Licho did poorly in public schools, changed schools frequently, was often truant and was not motivated to continue his education. April 1995 is when the incident happened when Licho was assaulted at a party and his brother, Jose, Jr. shot the man. His older brother, Jose, was arrested and then incarcerated at TYC and Licho was sad and guilty about his brother being away from the family. Adolescents frequently show depressive systems by acting out behavior.<sup>42</sup> Licho's grades were so poor at Thomas Edison, that he did not receive credit for any of the courses taken in the 1995/1996 semesters.

Following Thomas Edison, Licho was enrolled at Nimitz High School in Irving, Alternative Schools through Juvenile, and the DallasCAN Academy. Licho was enrolled and completed

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42 Article by Dr. Glen Pearson (Exhibit 29)

the ninth grade while at the Rio Grande Institute of Texas Youth Commission. He performed much better in the structured environment while in TYC. He attended GED classes after leaving there, and made plans to test for the GED. Licho had made several attempts to pass the GED, but just missed by a few points.

**Licho and Family Criminal History**

Licho and the Escamilla family have a long history of arrests and incarcerations. Licho's paternal Uncle Natalio was murdered by being shot at age seventeen in Florida. Licho's father was arrested in 1989 and 1991 for public intoxication and both times for carrying an unlawful weapon (gun). The Dallas, Irving and other local Police Departments have a long history with the Escamilla family.

Jose's oldest son with Rosa, Santos Lugo Escamilla (goes by Lugo) was convicted of murder and incarcerated in the Minnesota prison system in 1995. He is currently incarcerated at the Minnesota Correctional facility in Moose Lake, Minnesota. His may be eligible for release by 2009, but his sentence does not expire until 2016.

Licho's brother, Juan, was first arrested as an adult by the Dallas PD on September 21, 2001 for unauthorized use of a vehicle and evading arrest. Juan was apparently on probation for four years for a previous juvenile offense and his probation was revoked. He was sentenced to 240 days in jail. Juan was incarcerated at Lew Sterrett during the same time that Licho was incarcerated there. Juan's second arrest was July 27, 2002 by the Irving PD for unlawful carrying of a weapon. He was incarcerated for 200 days. Juan's last arrest was on April 10, 2003 was for possession of a controlled substance (cocaine) and unlawful possession of a firearm by a felon. Juan was sentenced to two years and is currently completing that confinement at the TDCJ Clements Unit in Amarillo, Texas.

Licho's uncle, Juan (his father's brother, not Licho's younger brother), was arrested by the Dallas PD on April 5, 1969 for disorderly conduct and driving while under the influence of liquor and sentenced to 30 days. He was arrested again August 3, 1973 for driving while under the influence of liquor and sentenced to one year probation. He was arrested in 1978 for carrying a prohibited weapon and received three years probation.

Licho's cousin Eliezar Escamilla, son of Jose's brother, Juan, was arrested February 12, 1997 and charged with aggravated assault with a deadly weapon (car), which was later changed to manslaughter. He was also charged with burglary of a habitation and received a sentence of six years. He is currently out on parole in Dallas. He had a series of misdemeanor arrests starting in 1994 and his last arrest was in September of 2004, but he was found not guilty. Another of Licho's paternal cousins, Julian Escamilla, also has a record of arrests by the Dallas PD.<sup>43</sup>

Licho's older brother, Jose, was incarcerated at Texas Youth Commission as a juvenile in 1995 for shooting a man that had assaulted Licho. His first adult arrest was May 30, 2001 by the Irving Police Department for evading arrest and he was sentenced to 90 days in jail. His next arrest was by the DPD on May 19, 2003 and was originally for unlawful carrying of a weapon (handgun), but the charge was later changed to DWI. Jose is currently incarcerated on federal drug related charges and is incarcerated in a federal prison near San Antonio.

#### Licho's Substance Abuse History

Licho began to use alcohol, and drugs as a child in an effort to self medicate the overwhelming emotional responses he experienced as a result of life threatening trauma and he became addicted to these substances by the time he reached his teen years. Drugs and alcohol were made available to him at an early age in sufficient amounts to cause addiction by those who should have protected him from harm.

In a chemical dependence assessment in February, 1999, Licho reported that he started drinking at age nine and was drinking two to four times a month. He would drink six to seven beers throughout the evening on those occasions. By age ten, Licho had increased his drinking to about two times a week and on weekends. The amount of alcohol continued to increase and by age twelve, Licho was drinking up to twelve beers in a drinking episode. In addition to the alcohol, at age twelve, Licho was beginning to smoke marijuana at least twice

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43 Criminal Records (Exhibit 26)

a month. Licho continued to smoke marijuana until he was sent to the Youth Village in 1998. In 1998, at age sixteen, Licho was drinking as many as 18 beers on almost a daily basis. Licho was also occasionally smoking marijuana, but was trying to stop. Licho was going to clubs, where he was able to drink. Licho was using alcohol as one of his coping mechanisms and stated that he drank to "forget about his problems".<sup>44</sup>

The likelihood of Licho's addiction increased dramatically because of his family's economic conditions, cultural traditions, formal and informal social controls, and the companionship, approval and encouragement of other drug and alcohol users. Licho was exposed to alcohol and drugs, through his family, peers and the neighborhood drug culture. There was a considerable substance abuse history in Licho's family, particularly on his father's side of the family, which included his father, uncles, cousins, brothers and grandfather.<sup>45</sup>

In addition to the genetic predisposition to alcohol, Licho was also at higher risk because of his history of gang exposure/influence and involvement. Dr. Geoffrey Hunt describes alcohol as "an integral and regular part of socializing within gang life." Alcohol is often used as the "social glue" for the gang, and is used to "affirm masculinity and male togetherness".<sup>46</sup>

Research has indicated that children attending alternative schools may be at increased risk for developing serious alcohol problems. These children's structure had already been disrupted by problem behavior and/or substance abuse and by grouping all with these problems; the risk is increased for all. Research indicates that this drinking interferes with healthy development in adolescents.<sup>47</sup> After sixth grade, Licho's attendance at school decreased and his move from school to school and alternative schools escalated. The more he is moved from school to school, the more difficult it became for him to fit in without adjustment problems, which contributed to increasing truancy. Once a student is engaged in that cycle, it

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44 TYC Records (Exhibit 13)

45 Substance Abuse Genogram (Exhibit 16)

46 Hunt, Geoffrey. 2003 Alcohol and Violence in the Lives of Gang Members, *Alcohol Research & Health*, W

47 Windle, Michael, *Alcohol Use Among Adolescents and Young Adults*, *Alcohol Research & Health*, Winter 2003

is difficult to disengage. When Licho was sent to Texas Youth, he responded better to the structured environment that he could not maintain through the regular school system.

Licho was referred for Day Treatment, which is more intensive than outpatient group therapy on several occasions. Alison Statman, LMSW, made the recommendation for Day treatment based on the following:<sup>48</sup>

1. history and current routine use of alcohol
2. increased intensity and frequency of alcohol use
3. periodic use of marijuana
4. problems with legal system
5. continued drug use despite intervention
6. currently not attending school and history of behavior problems at school
7. substance abuse affecting school, work and family and perceived a problem by others

Ms. Statman also recommended family counseling to focus on Licho's behavior and drug use and to improve family communication and strengthen parenting skills for Jose and Maria.<sup>49</sup>

#### Social Relationships (friends and romantic)

Licho's friends were from the neighborhood and were exposed to the same risk factors as Licho. Many of his past friends are incarcerated, have criminal records or are deceased. Licho's closest friend at an early age was Jose "Jo Jo" Cavilla. Licho had a close relationship with Jo Jo and they attended school together. Jo Jo's family was involved in a car accident, when Licho was about eleven, and Jo Jo was killed and his sister was paralyzed. Licho was distraught over his friend's death. Licho says that Jo Jo's death was a turning point, when he began to lose interest in school. He had no desire to go to school without his friend, Jo Jo.

Licho was friends with his neighbor, Jessie "JJ" Cisneros, who lived across the street. According to Licho, they hung out together because he lived across the street, but Licho did

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48 Summary of Texas Alcohol and Drug Assessment for Youth, bated stamp page 190 of TYC records (Exhibit 13)

not feel very close to JJ. He and JJ did smoke marijuana together. JJ's mother, Lucinda Rogers, stated the relationship between JJ and Licho had grown apart as they grew older. She said that her son, JJ, had been arrested on drug charges and "others" believed that he had gotten a lighter sentence because he had "snitched". Lucinda said that was a rumor and untrue about her son being a "snitch". JJ testified for Licho during his trial in the punishment phase.

Licho was also friends with Raul Reyna, who lived a few streets over from Licho. Raul and Licho were best friends and were close for many years. Raul, Licho and Chris Garza were friends and they had formed the "pee wee" midnight dreamers. Raul said that Licho tried to spend as much time as possible away from home and he would come over and they would play video games.

Raul remembered the incident where Licho hit Mr. Yanez with the crowbar. Raul had apparently just gotten a four wheeler and went over to Licho's house to show him. He let Licho drive it and Licho had gone toward the school. He had returned a short time later and he was bleeding profusely from the back of his head. Licho told Raul that Mr. Yanez had hit him with a large stick and he was furious. Licho encouraged Raul to go with him to "get back" at Mr. Yanez, but Raul would not. He encouraged Licho to consider what would happen, but Licho was very upset. Raul warned him that he would probably be arrested. Raul got his father's first aid kit and bandaged Licho's head. There was little available from the kit but a couple of large band aids which they used. Raul thought the cut probably needed stitches, but it would have cost money to go to the hospital.

Raul did not have a good relationship with Licho's father and said that Licho was frequently over at his home to get away from his own home. He said that Licho's father made them go to work on the weekend and Licho resented it because he was just a boy and wanted to play. Raul said that Licho's mother wore herself down because she tried to stay up until the boys came home. Raul said that Licho's mother would try to intervene between Mr. Escamilla and Licho.

Chris Garza was also a friend of Licho and he had an older brother, Michael, who was friends with Jose Jr. The Garza brothers were frequently involved with the legal system. When Licho's brother was arrested in 2000, it was a result of the police coming to the house looking for Chris, who was not there.

Licho furnished the address and/or telephone numbers of many friends, but most were difficult to locate and did not respond to letters or requests to call. Nearly all of Licho's friends were from similar backgrounds and had lifestyles similar to Licho and his family. Most were fearful of talking with anyone they perceived might be part of the legal system.

According to Licho's father, Jose, Licho was always getting in trouble with other boys in the neighborhood mainly because of girls. The other boys were jealous and it caused problems. Licho would not back down and often ended up in fights.<sup>50</sup>

Licho was interested in girls from an early age. He was frequently involved with several girls at the same time and referred to each of them as his girlfriend. Licho's most serious relationship was with Vicky Gonzalez. She attended school with Licho, but her family lived in a slightly better area and Vicky was not in the same crowd as Licho. She was extremely distressed when he got involved in any type of legal situation or had problems at school. Licho says that he genuinely loved Vicky and attempted to "straighten out" his life to meet her expectations. He made several impulsive, probably detrimental choices related to school in order to be close to Vicky. He attempted to go to Nimitz High School to be near Vicky. It seemed like a good idea to Licho's parents when he approached them to get him out of the neighborhood and current schools. Licho was only at Nimitz for a short time and was eventually expelled. Licho continued to try to maintain contact with Vicky through the years and she would occasionally write. Vicky had told Licho that if he had any more problems with the police or was arrested, she would stop seeing him. Licho says that he did make an effort because he cared so much for Vicky, but it was hard to escape his environment. Vicky did break up with Licho after he was arrested. Vicky's mother had not

really known about the relationship with Licho and she also advised Vicky to end the relationship. Unlike the majority of Licho's friend and girlfriends, Vicky did well in school and planned to attend college. Unlike the majority of Licho's friends, she had "goals and plans" for the future.

Other than Vicky, most of Licho's romantic relationships were short and most involved sexual relationships. In conversations with some of Licho's prior girlfriends, they indicated that Licho was fun, very personable and never abused them physically. I spoke with Jessica Garcia, who had been dating Licho at the time of the DMX incident. Jessica had dated Licho several times on and off through the years. She had continued to run into him at various places, such as the State Fair and parties. She had been at the party where two men were killed who were relatives of Michael Torres. Licho had originally been arrested, but had not been charged with the murders to her knowledge and had been released. She was aware that the family of the men killed at the party, which included Michael Torres were after Licho because they felt he was responsible. Jessica stated that Licho was extremely paranoid during that period and was carrying two different guns. He was staying at an apartment over in Arlington and she did not believe that anyone knew about the apartment. Jessica had met him once at Don Carter's and had followed him to the apartment. She had talked to Licho on the day of the shooting at the DMX and he had invited her to come to DMX, but she had other plans.

On a trip to the State Fair in October 2001, Licho met a girl named Erica Hernandez. They continued talking on the phone and seeing each other. This was during the same timeframe that Licho was dating and calling Jessica Garcia. After Licho was arrested for murder and incarcerated, Erica maintained contact with him and they talked frequently on the phone. She and Licho ran up such enormous telephone bills that her phone was disconnected and the bills also caused credit problems for other family members. Erica maintained close contact with Licho prior to and throughout the trial. After the trial, Licho asked Erica to marry him by proxy and she agreed. Erica says that she agreed to marry Licho because she wanted to

make him happy. They were married in November 2002. After Licho was transferred to the Polunsky Unit, he had less and less contact with Erica. Licho was not even sure where she was living and did not have a phone number to reach her. Licho has no children from any of his relationships

Licho's sister, Nana, had more contact with Erica prior to the trial, but Nana felt that Erica was a bad influence and she had distanced herself from Erica. Erica was initially using the name Erica Escamilla, but is no longer using Escamilla. Licho's sisters thought that Erica had divorced Licho, but I could find no record of a divorce and Licho had no knowledge of it either. Erica rarely writes and does not visit Licho and he does not really consider her to be his "wife". Erica initially seemed somewhat cooperative in furnishing information, but after one telephone conversation, she was not available.

Erica attended the trial and was very upset about Licho's attorneys. Licho told her during the trial that he was angry and felt hopeless because his attorneys did not investigate anything he had told them. He told Erica that he would give them information and they wouldn't do anything with it. Erica said that she couldn't believe that Licho's attorneys didn't object to more things and she felt there was very little cross examination of the state's witnesses.

#### Emotional, Physical and Sexual Abuse

Licho reports no history of sexual abuse, but it would be such a source of shame for him, it is doubtful if he would ever acknowledge if he had been sexually abused.

Other family members and friends of Licho report emotional abuse by his father and older brother, Jose. Licho was also physically abused by his father and his older brother. Licho's sister, Maria (Nana) stated:

*My father was particularly harsh with the boys, although he was very strict with me and my niece, Rachel. One summer, we were all being punished for something and we had to stand in the sun outside and sand the rust on these pieces of sheet metal. Rachel and I got dehydrated because it was so hot and he allowed us to stop and get in the shade, but he made the boys continue. We would try and sneak them water when we could. He would often start these harsh punishments and then would go to work or to bed and my mother would let us stop. One time, he was making*

*the boys stand on their knees for a long period of time. It was about midnight and he had gone to bed and left them. It was a school night and my mother came and told them to go to bed.<sup>51</sup>*

*My father would hit us with his belt, switches or whatever he could find. He had this one wooden stick that almost had like a whip on the end and he broke it on Licho. Licho prided himself in being able to take a beating without crying. I felt so sorry for him because I knew that it really hurt and he would have marks, but he would say that he was fine. He did the same thing at school when he got licks. He refused to let anyone see that they were hurting him. I know that my father went up to school and signed so that they could give Licho licks when he misbehaved. He would then get another whipping when he got home. When we went out, everyone thought that we were all such good children and very respectful. When we would get home, my father would severely punish us if he thought we had been disrespectful in some way.<sup>52</sup>*

Lucinda Rogers, a neighbor from across the street saw Licho's father, Jose, hit Licho and the other boys, but he hit them like a man with his fist – not like a spanking.<sup>53</sup>

Licho described this treatment by Jose as a way of being "toughened up". Prior to becoming a member of the gang, Licho had to allow himself to be beat up for 30 seconds. Licho's sister, Maria (Nana), described it in a different way:

*I remember how Jose treated Licho. He would play this game where the guys would all stand in a circle. He would then tell Licho to "kick his ass" and Licho was expected to fight that person and win. If Licho didn't win, Jose would call him a punk. I remember one time when Jose wanted Licho to beat up his own friend. Licho didn't want to have to beat him up and wanted his friend to just leave. My older brother, Jose, had a reputation as being a real tough guy. He was initially shorter and smaller than some of the other boys, but wouldn't back away from anyone. I know that everyone at school didn't want to cross him. I know that my brother, Jose, was involved in a gang, the Midnight Dreamers. He encouraged Licho to be part of the gang and tried to get Licho to prove that he was "man" enough to be part of the gang.<sup>54</sup>*

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51 Maria Escamilla Affidavit (Exhibit 4)

52 Maria Escamilla Affidavit (Exhibit 4)

53 Lucinda Rogers Interview (Exhibit 18)

54 Maria Escamilla Affidavit (Exhibit 4)

Licho's neighborhood friend, Raul Reyna, remembers that Licho's older brother, Jose, was very "mean" to Licho. When he and Licho were outside playing at about age eight or nine, Jose Jr. would taunt Licho that he played like a "girl" and would hit him and tell him to toughen up.<sup>55</sup>

Licho prided himself in being able to take a "beating" like a man. He was beaten up when he was twelve by two male adults. Licho and his siblings witnessed their father hitting their mother on many occasions. Licho's sister, Maria (Nana), stated.

*I have seen my father hit my mother with a belt and his hand. Licho, in particular, would try to shield my mother from my father. My mother would often cry and sometimes she talked about leaving my father.*<sup>56</sup>

A co-worker of Licho's mother, Luis Gonzalez, also indicated that Maria talked with him about the physical abuse by Licho's father, Jose.

*We would frequently have coffee in the morning prior to starting work and we would talk. Maria would tell me about problems she was having with her family. According to Maria, most of the family's and her personal problems were related to her husband. She talked about her husband drinking all the time. I observed on three or four occasions that Maria appeared to have been beaten and a black eye. Maria was also troubled about her older son, Jose, being in jail. Maria said that her husband was not good to her and wouldn't give her money. She also told me that her husband often carried a gun. He was aggressive and frequently getting into fights.*<sup>57</sup>

A neighbor of the Escamilla family from Irving, Margaret Barajas, also remembers Maria being hit by Jose.

*I knew the Escamilla family when they lived across the street in apartments in approximately 1981-1982. We became friends and she would come over to talk. Maria told me that her husband would hit her and I saw bruises.*<sup>58</sup>

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55 Raul Reyna Interview (Exhibit 19)

56 Maria Escamilla Affidavit (Exhibit 4)

57 Luis Gonzalez Affidavit (Exhibit 3)

58 Margaret Barajas Affidavit (Exhibit 20)

### Medical and Psychiatric History

Licho was born at Irving Medical Center and medical records indicate that it was a normal delivery and no problems were reported.

After being beat up by an adult at a party, Licho was treated at the Irving Healthcare System on April 17, 1995. Licho's major complaint was shoulder pain. The ER record indicates:

*Pt states he was assaulted by a man at approximately 22:00. Hit with fists on shoulder and arms. Bruises noted on left arm with red marks across back on neck and shoulders. Pt denies LOC. States unable to sleep due to nightmares. Pt awake and alert.<sup>59</sup>*

Licho's states his injuries were caused by an assault where someone used their fist and he was pushed against a car. Licho denies any head injuries, but has multiply abrasions and injuries on his upper body and also contusions on his back, arm and knee. The doctor indicates that Licho has "acute anxiety".

In a physical exam at the Wackenhut Corrections on July 19, 2000, Licho reports a head injury where he was hit with a tree (incident with Mr. Yanez). I have personally seen an inch long scar on the back of Licho's head where he was hit. The doctor notes in this 2000 exam that Licho has a tattoo that is about three days old. Licho reports that he is using alcohol five days a week and smoking marijuana daily.

Licho's major reported medical injuries:

- (1987) Age 5, bitten by a dog on the calf of his leg and hand
- (1990) Age 8, Licho's mother accidentally backs over him with the car. Licho is taken to the hospital and it is reported that Licho was hit on his bike by a car. Most of the injuries are related to abrasions from being trapped between the car and the road.
- (4/17/1995) Age 13, Licho was beaten up at a party
- (1999) Licho fractures left ankle while on leave from TYC
- (1/20/1999) Age 17, Licho receives a head injury from incident with Mr. Yanez

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59 Irving Healthcare System (Exhibit 1)

- (05/18/2001) Age 18, Licho treated at Parkland after a MVA with loss of consciousness. CT Head Scan ordered – no evidence of acute intracranial pathology
- (02/4/2001) Age 18, Status post gunshot wound to left buttock and left hip now with weakness of left lower extremity. Licho is treated at Parkland leaves after receiving treatment
- (11/25/2001) Age 18, Licho is treated for gunshot wounds to the chin and stomach. He is released to Dallas County Jail.

Licho frequently had problems with various rashes while incarcerated at TYC because he was allergic to the deodorant furnished there.

Licho has a mental health and medical evaluation on July 19, 2000 at the Wackenhut. Licho states that he began using Marijuana at age eight. Licho again reports the head injury from Mr. Yanez that occurred in 1999. In the medical evaluation in 2000, Licho reports headaches and some dizziness and a head injury with loss of consciousness.

Licho does not report any mental health treatment, other than talking with counselors while incarcerated at Texas Youth Commission.

In Licho's psychological assessment in December 1996, the psychologist describes Licho:

*Licho is a sad and insecure youth with poor coping skills. His primary coping strategy appears to be fighting, but, alcohol usage and other defiant behavior (i.e., truancy) were also acknowledged.<sup>60</sup>*

In a psychological evaluation in February 1999, Licho says that he is closest to his older brother and mother. Licho says his mother is diabetic and going blind.

*Licho indicates that he feels happy when he is around to assist his mother with running errands, but stated that he sometimes feel "sad" about his mother's condition.<sup>61</sup>*

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60 TYC Record, Date stamped page 182 (Exhibit 13)

61 TYC Psychological Assessment (Exhibit 13)

Licho received a psychological assessment in May of 1999. The mental health diagnosis given was Conduct Disorder, Mild, Cannabis Abuse and Alcohol Abuse. There is no indication of any type of bizarre cognition, mental retardation or suicidal thoughts.

#### Military History

Because of their criminal records, there were few, if any, of Licho relatives who had been in the military. Neither Licho's father nor brothers had been in the military or shown any interest. Licho was never in the military and there is no record that he expressed any inclination in that direction.

#### Work History

Licho's father, Jose, had started and owned a small tire shop that sold mainly used tires and did tire repair. Jose maintained long hours at the tire shop, frequently seven days a week, but there was very limited income from "Escamilla Tires Shop". When Jose had initially opened the shop, it had been in a good location for business and there was little competition. As the neighborhood became less desirable and other competition opened, the business offered a very limited income. On many records, Jose listed his income from the business as about \$250.00 a week.

Licho and his brothers started at a young age to go with Jose to work in the shop. As a result of feeling obligated to work for his father, Licho has a very limited history of employment other than at his father's tire shop. Consequently, Licho had limited exposure to working in a normal job situation for an employer. He had taken over the responsibility for the shop on several occasions when his father had been ill. Licho worked for his father on a full-time basis from December 2000 to April 2001 and was required to show his check stubs from Escamilla Tires to his parole officer. The check stubs consisted of a hand written cash receipt from the shop.

During November 2001, Licho was employed for a brief time at Brim Laundry Machinery Co, Inc. and furnished several paycheck stubs to his parole officer. It appears that Licho was only employed at the Brim Laundry for about three weeks in November 2001. Licho also reports working for a few weeks at a grocery store about this same time period.

He attempted several jobs, but his employment was usually limited to a very short period. While at TYC, Licho had taken a welding course and had plans to pursue that as an occupation. Results from vocational tests while Licho was at Texas Youth Commission indicated his strengths and interests were in the artistic, arts and entertainment area. This was exemplified by his previous role as the family "clown" and he scored highly in the performing arts area.

Licho took a welding course for vocational training while at TYC and also expressed an interest in trying to pursue that for a career path. Licho was more hopeful and focused on career plans while he was incarcerated, but each time he was released back to his old environment, he quickly took up his old habits and lost his motivation.

### Conclusions

Due to her responsibilities in providing for the family and other household duties, Licho's mother, Maria, was frequently unavailable for her children emotionally. She was the victim of trauma that included the death of her first husband, estrangement from her oldest children, and physical abuse by Jose. After her husband's (Guadalupe) death, she was overwhelmed with the responsibility of providing and caring for four children, including an infant. She was forced to return home to her parents and was very unhappy. She was forced to integrate her family and travel on the migrant circuit to make a living. She later became involved with Licho's father, Jose, and he seemed to be her "way out" of the migrant lifestyle and constant moving. Maria was frequently unhappy in her common-law marriage to Jose, which included physical abuse and dealing with an alcoholic husband. Prior to her death, she was depressed and was certainly affected by the family problems and legal problems of her children, including Licho. Maria was taking an anti-depressant, Paxil.

When Licho and his brothers were young, his father was a very strict disciplinarian and frequently hit the children with whatever he could find. Later, as the boys became older, he was unable to control them and had instilled the use of violence to solve problems in his

children. He was physically abused by his father and frequently helplessly watched his father hit his mother.

Licho lost his close childhood friend to a car accident and felt responsible and guilty for his older brother's incarceration. The trauma disrupted his normal development and prevented him from learning the vital lessons of life that childhood is intended to provide. Licho became hyper vigilant, ever alert to unpredictable danger, and stayed in a constant state of arousal. The array of symptoms Licho displayed in response to these childhood traumas is diagnostic of Post Traumatic Stress Disorder.

Licho survived a childhood of frequent neglect by his parents and being supervised by his older sister and brother. Licho's family was poor, and there is an increasing likelihood in families in poverty that older children will become a parental child. There is frequently not clear communication with this parental child, which can contribute to problems with both the children being supervised and the parental child understanding their limits and responsibilities. Children learn about their expected behavior from their parents, siblings, peers and other adults.<sup>62</sup> Each family also has their own rules, which include specific roles and expectation of each family member. However, in addition to the specific rules, there are implicit rules, which are established over time by repeated family behaviors. Licho's family, as evidenced, by the legal and social problems all members experienced was not a good source of learning. It was primarily within the family "that character is formed, vital roles are learned, and children are socialized for responsibility in the larger society".<sup>63</sup>

Licho was indoctrinated into gang activities by his older brother, Jose, and had frequent referrals as a juvenile. There have been several studies regarding the increased risk for delinquency by adolescents involved in gangs. Two of the major factors identified were 1) child maltreatment and 2) gang involvement. Licho had both of these risk factors present. Gang membership is not limited to the short-term contribution to delinquent behavior, but

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62 Janzen, C. and Harris, O., 1986. Family Treatment in Social Work Practice, F.E. Peacock Publishers, Inc.,  
63 Hepworth, Dean & Larsen, Jo Ann. 1990. Direct Social Work Practice. Theory and Skills. Third Edition,  
Wadsworth, Inc.

causes a poor and disorderly transition from adolescence to adulthood. The studies also found that poor school performance and “brittle child-parent” relationship increased the risk for gang membership.<sup>64</sup>

Licho was the child of an alcoholic father and was genetically predisposed for addiction to alcohol. An alcoholic parent causes numerous problems in the family. Licho was affected by his parent’s verbal and physical altercations and the resulting lack of interest in him. This frequently leads to inconsistent behavior with either strict, harsh punishment or “spoiling”. This uncertainty in parenting can undermine their growth and confidence.<sup>65</sup> Licho began drinking at an early age and also started using marijuana at an early age. He became addicted to these substances by the time he reached his teen years. The probability of Licho’s addiction increased dramatically because of his family’s economic conditions, cultural traditions, and the companionship with negative friends and family. Alcohol and marijuana were made available to him at an early age by those who should have protected him from harm. Intoxication by alcohol and other mind altering substances had a disinhibiting effect on Licho’s behavior and increased his sense of threat and perception of danger.

After Maria’s death, Licho became despondent and depressed, and believed he was helpless to change his circumstances. Licho’s father and other family were also overwhelmed with the adjustments needed to compensate for a lost family member. Licho’s mother had been the “glue” of the family. A loss of a family member requires the need for the family to reorganize and make changes. It is evident from the Escamilla family’s reaction to previous problems this would be a difficult task requiring family members to take on new responsibilities. There are several identified tasks involving in the mourning process. The accomplishment of these tasks is needed for the person to get back to their prior psychological baseline.<sup>66</sup> In Licho’s case, he had just been released TYC and was on parole. He had to immediately report to his parole officer and attempt to fulfill the requirements of

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64 The Causes and Correlates Studies: Findings and Policy Implications, Terence Thornberry, David Huizinga and Rolf Loebler, *Juvenile Justice*, Volume IX, Number 1, September 2004.

65 Janzen, C. and Harris, O., 1986. Family Treatment in Social Work Practice, F.E. Peacock Publishers, Inc.,  
66 Worden, J. 1991. Grief Counseling & Grief Therapy. A Handbook for the Mental Health Practitioner,

his parole. Although, the parole officer attempted to be understanding and recommended counseling, the parole requirements could not be ignored.

Licho's parents and/or other family members did not attempt to get help with any of the family problems or Licho's behavior problems. Families in poverty frequently have problems accessing social services. These problems are usually enhanced when the family has lived for a generation or longer in poverty. The Escamilla family was often disconnected with the outside "English speaking, American world". Any connect with the outside world usually involved negative encounters with justice system, schools and other health services. Licho's father was from Mexico and his limited knowledge of laws, his alcoholism, his arrests and limited understanding of the English language had frequently left him feeling distrustful and hostile toward various social agencies.<sup>67</sup> When there was a referral from juvenile or the school, Licho's father or mother reluctantly responded, but no change was made within the family.

Licho was assessed so many times by the Texas Youth Commission, but the assessment should only have been the **first step**. The point of the assessment is to evaluate what, if any, treatment is needed for problems identified in the assessment. **The second**, and most important step, is to provide an intervention and treatment that treats the problems identified in the assessment. Because of prior problems at the Texas Youth Commission, there were policies in place for all youth to be assessed, but the **primary motive for the assessment was to be in compliance with the policy**. The main objective of the TYC assessments were to identify if the youth might be mentally retarded or have a severe mental illness. If that was not identified, then low priority "recommendations" were made for treatment for other problems. Licho's sister, Brenda, was involved with the juvenile justice system and was aware of their shortcomings. She attempted to testify about this at Licho's trial, but it is doubtful she was accepted as an expert by the jury and her testimony was probably not meaningful.

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Second Edition, Springer Publishing Company, New York.

67 Janzen, C. and Harris, O., 1986. Family Treatment in Social Work Practice, F.E. Peacock Publishers, Inc.

Licho has demonstrated adjustment to incarceration in prison, and doesn't appear to pose a threat to the safety of correctional staff and inmates. Licho has the ability to follows rules and regulations necessary for the security of correctional institutions. Licho's behavior improved during previous incarcerations at Texas Youth Commission.

I declare under the penalty of perjury under the law of the state of Texas that the foregoing is true and correct, and was executed the 26th day of November 2005.

*Toni Knox, LCSW*

Toni Knox, LCSW

## Appendix

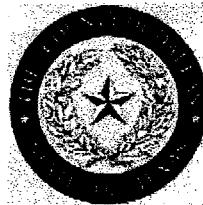
The following is a list of reviewed documents and interviews used in preparing the Declaration of Toni Knox, LCSW:

Brenda Hinojosa	Dallas County Criminal Records
Licho Escamilla	Legal Transcripts from Trial
Maria Elena Escamilla	Legal Notes from Brook Busbee
Elizabeth Escamilla	Family Photos and Memorabilia
Juan Escamilla (defendant brother)	Irving Police Arrests Records
Vickie White	Baylor/Irving Hospital
Joe Villanueva	Parkland Hospital
Dallas Police Department Gang Unit	Texas Youth Commission Records
Dr. Glen Pearson	Dallas County Jail Records
Articles written by Dr. Glen Pearson	Tarrant County Jail Records
Jessica Garcia	Dallas Police Arrests Records
Raul Reyna	Dallas County Juvenile Department
Rose Lind Pena	Sister Rose Ann Aguilar
Sara Barajas	
Juan Escamilla (defendant uncle)	
Erica Hernandez	
Lucinda Rogers	
Juanita Escamilla	
Vicky Gonzalez	
Luis Gonzalez	
Margaret Barajas	
Crystal Tijerina	
Jesse Cisneros	
Rachel Hinojosa	
Jose Escamilla, Sr.	



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NAME ENTERED ESCAMILLA L

NAME TYPE DF

LN		ARC	RS	DOB	CASE/BOND	CT	CHARGE	DISP
01	ESCAMILLA LICO		U	000000	W-0159398-A	FP	1107 PEN WRIT	
02	ESCAMILLA LICO		WM	070382	F-0159399	FP	ATT CAP MUR PO	
03	ESCAMILLA LICO		WM	070382	F-0159401	FP	ATT CAP MUR PO	
04	ESCAMILLA LICO		WM	070382	F-0159398	FP	CAP MUR PO	JCP
05	ESCAMILLA LICO		WM	070382	F-0159400	FP	DEADLY CONDUCT	
06	ESCAMILLA LICO		WM	070382	F-0158830	FP	MURDER	
07	ESCAMILLA LILLIE	A	WF	081143	MB9255567	MC	THEFT 20	NFOG
08	ESCAMILLA LORENZO OLIVARES		WM	090672	F-0151931	FR	POSS CS INT DE	DISM
09	ESCAMILLA LORENZO OLIVARES		WM	090672	F-0151930	FR	POSS CS INT DE	DISM
10	ESCAMILLA LUCILA DEVIDALES		WF	112746	MB0174512	MK	FLID	PGBC
11	ESCAMILLA LUCIO		WM	101673	MC05A8916	MD	NDL	
12	ESCAMILLA LUCIO		WM	101673	MC05A8917	MD	RD LT	
13	ESCAMILLA LUIS MARTINES		WM	051865	MA9544187	MA	DWI 2ND	RVRD
14	ESCAMILLA LUIS MARTINES		WM	051865	MB0224365	MA	DWLS/SR	PGBC
15	ESCAMILLA LUIS MARTINES	A	WM	051865	MA9341088	MB	UCW	PGBC
16	ESCAMILLA LUIS MARTINEZ	A	WM	051865	MB9142853	MJ	DWI	RVRD
17	ESCAMILLA LYDIA RUBULCARD	A	WF	040953	MB9644758	MG	DWI	DSCH

Page Down

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